REMARKS

The present Amendment amends claims 1, 2, 5 and 6, and cancels claims 3 and 4. Therefore, the present application has pending claims 1, 2, 5 and 6.

35 U.S.C. §101 Rejections

Claims 1-3 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. As previously indicated, claim 3 was canceled. Therefore, this rejection regarding claim 3 is rendered moot. Regarding the remaining claims 1 and 2, this rejection is traversed for the following reasons. Applicants submit that claims 1 and 2, as now more clearly recited, are directed to statutory subject matter.

More specifically, claims 1 and 2 were amended to include features of claim 4 (now canceled), which provide that after the derivation of the cheapest system configuration, the system configuration is changed based on the derivation, thereby producing a useful, concrete, and tangible result. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

35 U.S.C. §102 Rejections

Claims 1-4 and 6 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,907,607 to Mummert et al. ("Mummert"). As previously indicated, claims 3 and 4 were canceled. Therefore, this rejection regarding claims 3 and 4 is rendered moot. Regarding the remaining claims 1, 2 and 6, this rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 1, 2 and 6 are not taught or suggested by Mummert, whether taken individually or in combination any of the

other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Amendments were made to the claims to more clearly describe features of the present invention. Specifically, amendments were made to the claims to more clearly recite that the present invention is directed to a method and apparatus of deriving a configuration of a system of a computer as recited, for example, in independent claims 1, 2 and 6.

The present invention, as recited in claim 1, and as similarly recited in claims 2 and 6 provides a method of deriving a configuration of a system of a computer in a configuration deriving system. The configuration deriving system includes a plurality of computers, which are to be performance-guaranteed, a supervisory server and a configuration deriving apparatus. According to the present invention, the method is executed by the configuration deriving apparatus. The method includes predicting a response time from issuing of a processing request to the end of its processing, based on an occurrence frequency of processing requests to the system of the computer and the configuration of the system of the computer, where the occurrence frequency is obtained from the supervisory server. The method also includes calculating costs of the system based on the configuration of the system. The method also includes receiving a response time A from issuing the processing request to the end of its processing, and calculating a probability of existence of processing whose response time is equal to or longer than A with respect to processing of all requests. Also included in the method is a step of deriving a configuration of a cheapest system from among configurations of systems having a probability equal to or lower than B. The method further includes changing the

configuration of the system based on a result of the deriving step. The prior art does not disclose all of these features.

The above described features of the present invention, as now more clearly recited in the claims, are not taught or suggested by any of the references of record, particularly Mummert, whether taken individually or in combination with any of the other references of record.

Mummert teaches a system and method for analyzing capacity in a plurality of processing systems. However, there is no teaching or suggestion in Mummert of the method and apparatus for deriving a configuration of a system of a computer as recited in claims 1, 2 and 6 of the present invention.

Mummert discloses a system and method for projecting capacity of computer resources for a plurality of processing systems in a processing environment and for adjusting workload among said systems to improve resource utilization. An administrative processor determines the projected usage of computer resources for a plurality of computer systems in a processing environment by representing the capacity of each of the plurality of computer systems in a normalized unit and by sorting the capacities of the computer systems by the normalized or standardized units. The standardized unit, optimally time as measured as the life expectancy of each different resource of the computer system, is used for the N-axes of the N-dimensional space called a capacity space. Each computer system is mapped to a point in the capacity space, which normalizes configuration and capacity differences between systems by expressing the usage of all resources in the units of time. Once the normalized values have been defined and sorted, the administrative processor can make adjustments to the workload among the plurality of processing

systems to improve the utilization of the capacity of the greatest number of processing systems in the processing environment.

One feature of the present invention, as recited in claim 1, and as similarly recited in claims 2 and 6, includes predicting a response time from issuing of a processing request to the end of its processing, based on an occurrence frequency of processing requests to the system of the computer and the configuration of the system of the computer, where the occurrence frequency is obtained from the supervisory server. Mummert does not disclose this feature. As described in column 2, lines 22-32, Mummert is directed to calculating the life expectancy of each resource in a system, identifying at least one critical resource as having the shortest lie expectancy, defining the life expectancy of the system as the life expectancy of the critical resource, and sorting all systems' life expectancies from the shortest to the longest. The workloads of those systems having the shortest life expectancies will be adjusted to more efficiently distribute the workloads and to improve the projected resource usages for the computer systems in the processing environment. Unlike the present invention, Mummert does not disclose predicting a response time. Therefore, Mummert is quite different from the present invention.

Another feature of the present invention, as recited in claim 1, and as similarly recited in claims 2 and 6, includes calculating a probability of existence of processing whose response time is equal to or longer than A with respect to processing of all requests, and deriving a configuration of a cheapest system from among configurations of systems having the probability equal to or lower than B. Mummert does not disclose this feature.

In the present invention, a calculation is performed, based on large amounts of data from the past, to obtain a configuration of a cheapest system of the

computer, while guaranteeing the response time of jobs to be executed. In short, the present invention involves the guarantee of a response time of jobs to be executed, and a reduction in price of a computer to execute the jobs. Mummert fails to teach or suggest where a calculation is performed so that processes having the predicted response time equal to or longer than A can exist with a probability equal to or lower than B, with respect to all processes. Mummer further fails to teach or suggest deriving the cheapest system configuration, as in the present invention.

Therefore, Mummert fails to teach or suggest "predicting a response time from issuing of a processing request to end of its processing based on an occurrence frequency of processing requests to the system of the computer and the configuration of the system of the computer, wherein the occurrence frequency is obtained from the supervisory server" as recited in claim 1, and as similarly recited in claims 1, 2 and 6.

Furthermore, Mummert fails to teach or suggest "calculating a probability of existence of processing whose response time is equal to or longer than A with respect to processing of all requests" and "deriving a configuration of a cheapest system from among configurations of systems having a probability equal to or lower than B" as recited in claim 1, and as similarly recited in claims 2 and 6.

Therefore, Mummert does not teach or suggest the features of the present invention, as recited in claims 1, 2 and 6. Accordingly, reconsideration and withdrawal of the 35 U.S.C. §102(e) rejection of claims 1, 2 and 6 as being anticipated by Mummert are respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references used in the rejection of claims 1, 2 and 6.

35 U.S.C. §103 Rejections

Claim 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mummert in view of U.S. Patent No. 6,823,516 to Cooper. This rejection is traversed for the following reasons. Claim 5 is dependent on claim 1. Therefore, Applicants submit that claim 5 is allowable for at least the same reasons previously discussed for independent claim 1.

In view of the foregoing amendments and remarks, Applicants submit that claims 1, 2, 5 and 6 are in condition for allowance. Accordingly, early allowance of claims 1, 2, 5 and 6 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (referencing Attorney Docket No. 500.42883X00).

Respectfully submitted,

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